

1 MCGREGOR W. SCOTT  
United States Attorney  
2 JEFFREY A. SPIVAK  
Assistant United States Attorney  
3 2500 Tulare Street, Suite 4401  
Fresno, CA 93721  
4 Telephone: (559) 497-4000  
Facsimile: (559) 497-4099  
5

6 Attorneys for Plaintiff  
United States of America  
7

8  
9 IN THE UNITED STATES DISTRICT COURT  
10 EASTERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,  
12  
13 Plaintiff,  
14 v.  
15 JOSE LUIS RAMIREZ,  
Defendant.

CASE NO. 1:17-MJ-00168-SAB  
STIPULATION AND ORDER TO CLARIFY  
AND/OR MODIFY TERMS OF PROBATION  
18 U.S.C. § 3563(c); Fed. R. Crim. P. 32.1(c)

16  
17 **STIPULATION**

18 Plaintiff United States of America, by and through its counsel of record, and defendant, by and  
19 through defendant's counsel of record, hereby stipulate as follows:

20 1. On February 21, 2020, this Court sentenced Defendant Jose Luis Ramirez to 30 days of  
21 imprisonment. (ECF #45-46). The Court, as a condition of probation, ordered the 30 days to be served  
22 intermittently, on weekends, beginning on March 20, 2020 at 5 pm. (ECF #46). In reading the  
23 conditions of probation, the judgment does not require consecutive weekends.

24 2. According to the United States Bureau of Prisons (BOP), Defendant surrendered at  
25 Metropolitan Detention Center Los Angeles (MDC LA) on March 20, 2020 to begin his sentence. He  
26 was directed by USMS to return on March 27, 2020, which he did, and served his first weekend of  
27 service the weekend of March 27, 2020.

28 3. As this Court is well aware, the United States is in the midst of COVID-19 pandemic, as

1 evidenced by this Court's General Orders 610-614.

2         4.         Given the severity of the COVID-19 concerns, BOP has concerns with Defendant's  
3 weekly arrival at MDC LA and the possibility he may spread the virus contracted from the community  
4 among the MDC LA general inmate population and exacerbate an already difficult situation. BOP is  
5 requesting that the Defendant cease coming to MDC LA to serve weekends of incarceration until the  
6 pandemic is under control.

7         5.         The government is uncertain whether modification is necessary, given that the judgment  
8 does not appear to mandate consecutive service and because even if the Defendant does not serve any  
9 weekends until October 2020, the length of his probation will allow sufficient time for the Defendant to  
10 complete his service during the term of probation. If the Court determines that no modification is  
11 necessary, the government simply informs the Court that it will instruct defense counsel and BOP to  
12 instruct the Defendant not to report for any weekends of incarceration until October 2, 2020 at 5:00 pm,  
13 or until prior notice from BOP.

14         6.         Otherwise, if modification is necessary, the parties stipulate and request, pursuant to 18  
15 U.S.C. § 3563(c) and Federal Rule of Criminal Procedure 32.1(c) that the Court modify the Defendant's  
16 conditions of probation, to suspend any condition that he serve weekend periods of incarceration until  
17 October 2, 2020, and to require the Defendant to begin serving weekends again on Friday, October 2,  
18 2020 at 5:00 pm, and to continue serving consecutive weekend periods of incarceration until he has  
19 served a total of 30 days.

20         7.         Given the ongoing public health emergency, and to protect himself and the public,  
21 Defendant joins in this request, and expressly waives any right to a hearing on this issue pursuant to  
22 Federal Rule of Criminal Procedure 32.1(c)(2)(A).

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

8. The parties request a hearing on September 17, 2020 at 10:00 a.m., or another date in September 2020, to assess the situation.

IT IS SO STIPULATED.

Dated: April 2, 2020

McGREGOR W. SCOTT  
United States Attorney

/s/ JEFFREY A. SPIVAK  
JEFFREY A. SPIVAK  
Assistant United States Attorney

Dated: April 2, 2020

HEATHER E. WILLIAMS  
Federal Defender

/s/ Matthew Lemke  
Matthew Lemke  
Assistant Federal Defender  
Counsel for Defendant  
Jose Luis Ramirez  
(As approved by email 4/2/2020)

### ORDER

Given the ongoing COVID19 Pandemic, to protect the Defendant and the public, and based on the parties request and stipulation, and pursuant to 18 U.S.C. § 3563(c) and Federal Rule of Criminal Procedure 32.1(c), and based on the Defendant's waiver of his right to a hearing, the Court modifies the Defendant's conditions of probation as follows:

Condition #4 is hereby modified effectively immediately by including the following sentence at the end of Condition #4: "Starting from the date of this order and continuing through October 2, 2020, Defendant is not required to serve any period of weekend of confinement. Beginning on Friday, October 2, 2020, at 5:00 p.m., Defendant is ordered to appear at the Metropolitan Detention Center Los Angeles (MDC LA), unless otherwise instructed by the Court, the United States Marshals Service, or the

1 United States Bureau of Prisons, to resume serving weekend period of imprisonment, and shall continue  
2 to report to MDC LA on consecutive weekends until he has served 30 days of confinement.

3 All other conditions of Defendant's probation shall remain in full force and effect.

4  
5 IT IS SO ORDERED.

6 Dated: April 2, 2020

A handwritten signature in blue ink, appearing to read "James A. Be...", is written over a horizontal line.

UNITED STATES MAGISTRATE JUDGE